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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Paul G. Allen et al.

Attorney Docket No.: 4000.2.52

Application No. 09/918,301

Group Art Unit: 2145

Filed: July 30, 2001

Confirmation No. 9860

For: SYSTEM AND METHOD FOR
DISPLAYING VIDEO STREAMS RANKED
BY USER-SPECIFIED CRITERIA

Examiner: Adnan M. Mirza

PRE-APPEAL BRIEF REQUEST FOR REVIEW

TO THE COMMISSIONER FOR PATENTS:

Pursuant to the new Pre-Appeal Brief Conference Pilot Program, the applicants request review of the rejection of claims 1-61 in the above-referenced application. Errors in fact have been made and essential elements required to establish a *prima facie* rejection are missing. In the Office Action of December 8, 2005 ("Office Action"), claims 1-61 were rejected based on Arnott (U.S. 2002/0083462) and Miller et al. (U.S. 2002/0049977) ("Miller").

Claim 1, as it currently stands in the application, includes the steps of:

ranking *within the network terminal* at least a portion of the video streams according to a set of ranking criteria, wherein *said ranking is to determine the relative locations of the video streams within the user interface*; and

arranging the locations of at least a portion of the simultaneously-displayed video streams within the user interface *in order of rank as determined by the ranking criteria*.

Certain displayed video streams may be more important to a user due to various factors, such as the time of day, the day of the week, how many people are watching each particular video stream, how frequently/recently a scene change has been detected, etc. According to the claimed invention, the video streams are ranked *within the network terminal* according to one or more of the above factors and then *arranged* in a user interface *in order of rank*.

The Office Action concedes that Arnott does not disclose ranking the video streams or arranging the video streams within a user interface in order of rank. Office Action at page 2. Instead, the Office Action relies on Miller to allegedly cure the deficiencies of Arnott.

However, the Examiner's own description of Miller suggests that the reference is completely inapposite to the claimed invention and does not fill the gaps left by Arnott. According to the Examiner, Miller discloses "prioritizing the transmission of different video streams both live and previously stored." Office Action at page 3 (emphasis added). Prioritizing the "transmission" of video streams, in the context of Miller, means deciding "how fast" to transmit certain video streams to a video cache. For example, Miller states that

[a]s an individual video stream serving an end user from local center video cache 108 begins to reach the low end of its designated fill level, that stream is assigned a higher bandwidth priority when compared to caches for other video streams that are fuller. That priority is maintained until the cache supporting that individual stream is refilled to its threshold level.

Miller at [0017] (emphasis added). Knowing "how fast" video streams are to be transmitted does not have anything to do with the "arrangement" or "relative locations" of the video streams in a user interface, as required by claim 1.

Notwithstanding this fact, the Examiner goes on to say that "one of ordinary skill in the art at the time of the invention [could] easily relate prioritizing the transmission of different video streams ... to ... determin[ing] the relative locations of the video streams within the user interface." Office Action at page 3. By the word "easily," the applicants assume that the Examiner means "inherently," since there is absolutely no teaching in the references of arranging video streams in the UI based on a ranking or priority.

The two concepts are, however, totally independent. How fast streams are transmitted or by what route (cached or non-cached) does not inherently or "easily" affect how the streams are displayed by a receiving network terminal. Claim 1 specifically recites that the video streams

are to be “simultaneously” displayed. Hence, the routing and transmission priority of video streams before reaching the network terminal, which is the focus of Miller, is completely irrelevant to, and independent of, where the streams are displayed in the UI. Miller is completely silent about arranging displayed video streams, and certainly does not condition placement of displayed video streams on any ranking or priority. All one is left with is the Examiner’s conclusory statement that priority of transmission “easily relates” to arrangement of the video streams in the UI. This is a factual error that highlights the failure of the Office Action to establish a *prima facie* case of obviousness.

The Office Action failed to address the newly added limitation of ranking the video streams “*within the network terminal*.” As previously argued, Miller’s stream manager controls “transmission between the centralized facility and the local center ... based upon various criteria.” Page 1, [0006]. Accordingly, the stream manager is positioned between the centralized facility (video archive) and the local center (video cache). Contrary to the claimed invention, Miller’s stream manager does not operate “within the network terminal,” where the video streams are “displayed,” as required by claim 1. Hence, the claimed limitation of “ranking within the network terminal” is not satisfied by Miller.

For the foregoing reasons, the applicants respectfully submit that the Office Action does not establish a *prima facie* case of obviousness for claim 1. Independent claims 20, 39, 58, 59, 60, and 61 include similar limitations and are likewise believed to be allowable. All other claims are dependent upon one of the foregoing claims and are similarly allowable.

Claims 2-8 recite different approaches for ranking the video streams and thereby changing the arrangement of the displayed video streams in the user interface, *i.e.*, recency of scene changes (claim 2-3), frequency of scene changes (claim 4), popularity (claim 5), time of day (claim 6), day of the week (claim 7), etc. Even if Miller utilizes some of the above factors

for determining how much bandwidth to allocate in transmitting a video stream, this has nothing whatsoever to do with determining how to arrange simultaneously-displayed video streams in a UI as claimed.

In their response to the Office Action mailed June 16, 2005, the applicants added the limitation of “*thereby changing the location of the first video stream within the user interface*” to claims 2-8. The Examiner did not specifically address these additions. This amendment clarifies that factors, such as time of day, do not simply affect the ranking, but also directly affect the arrangement of the video streams within the user interface. Again, the Examiner repeats the conclusory statement that one of ordinary skill in the art may “easily relate the prioritizing of the transmission of different video streams ... to determine[ing] the relative locations of the video streams within the user interface.” Office Action at page 4. This statement is made without any citation to the references or any reasoned analysis.

Claim 10 recites that a video stream displayed near the “*top of the user interface*” is designated as having a higher rank than a video stream displayed near the bottom of the user interface. The Office Action points to a discussion in Miller’s paragraph [0019]. However, the quoted passage does not mention or even suggest a “user interface.” It merely says that a video decoder located in the television, STB, or PC can signal for a retransmission of a lost packet. A person of ordinary skill in the art knows that a “user interface” is defined as “a set of commands or menus through which a user communicates with a program.” See www.webopedia.com. No alternative definition has been set forth by the Examiner.

If Miller does disclose a user interface, as the Examiner suggests, the applicants respectfully point out that Miller does not refer to the “top,” “bottom,” “left,” and “right” portions of the user interface. The cited references make absolutely no sense in the context of

claims 9 and 10, which refer to specific locations within a user interface for displaying the most highly-ranked video streams.

As amended, claim 14 recites “*visually emphasizing the video stream of highest rank within the user interface.*” An example of visual emphasis is presented in FIG. 8 of the present application, in which video stream 401a is enlarged relative to the other video streams (as recited in claim 15). In response, the Examiner cites to Miller at paragraph [0025]. However, nothing in the cited passage of Miller suggests any type of emphasis of a displayed video stream, let alone an enlargement of a video stream relative to the other displayed video streams. Miller simply states that content may be proactively sent from a central location to a local center if there is a high probability that the content will be viewed by several users.

The applicants submit that claims 1-61 are allowable over the art that has been cited and applied by the Examiner. The applicants therefore request withdrawal of the rejection of claims 1-61 and allowance of the application at an early date.

Respectfully submitted,

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